



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,646	01/23/2001	Youji Kohda	1405.1032/JDH	4296

21171 7590 02/20/2007  
STAAS & HALSEY LLP  
SUITE 700  
1201 NEW YORK AVENUE, N.W.  
WASHINGTON, DC 20005

EXAMINER
----------

DURAN, ARTHUR D

ART UNIT	PAPER NUMBER
----------	--------------

3622

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/20/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/766,646

Applicant(s)

KOHDA ET AL.

Examiner

Arthur Duran

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 and 14-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

### DETAILED ACTION

1. Claims 1-12, 14-26 have been examined.

#### *Response to Amendment*

2. The Amendment filed on 1/19/07 is insufficient to overcome the prior rejection.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-12, 14-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt (6,223,215) in view of Hoyle (2005/0005242) in view of Allibhoy (2004/0172343).

As per independent claim 1, Hunt (the ABSTRACT; FIG. 1; through FIG. 10; col. 1, ll. 10-67; col. 2, ll. 1-67; col. 3, ll. 30-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-15; and whole document) shows elements and limitations of claim 1.

As per dependent claims 2-10, Hunt shows the method of claim 1 and subsequent base claims depending from claim 1.

Hunt (the ABSTRACT; FIG. 1; through FIG. 10; col. 1, ll. 10-67; col. 2, ll. 1-67; col. 3, ll. 30-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-15; and whole document) implicitly shows all of the elements and limitations of claims 2-10; however,

Art Unit: 3622

Independent claim 11 is rejected for substantially the same reasons as independent claim

1.

Independent claim 12 is rejected for substantially the same reasons as independent claim

1.

As per independent claim 13, Hunt (the ABSTRACT; FIG. 1; through FIG. 10; col. 1, ll. 10-67; col. 2, ll. 1-67; col. 3, ll. 30-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-15; and whole document) shows elements and limitations of claim 13.

Independent claim 14 is rejected for substantially the same reasons as independent claim

1.

As per dependent claims 15-20, Hunt shows the method of claim 14 and subsequent base claims depending from claim 14.

Hunt (the ABSTRACT; FIG. 1; through FIG. 10; col. 1, ll. 10-67; col. 2, ll. 1-67; col. 3, ll. 30-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-15; and whole document) shows the elements and limitations of claims 15-20.

Independent claim 21 is rejected for substantially the same reasons as independent claim

1.

Independent claim 22 is rejected for substantially the same reasons as independent claim

21.

Independent claim 23 is rejected for substantially the same reasons as independent claim

13.

As per dependent claims 24-26, Hunt shows the method of claim 23.

Art Unit: 3622

Hunt (the ABSTRACT; FIG. 1; through FIG. 10; col. 1, ll. 10-67; col. 2, ll. 1-67; col. 3, ll. 30-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-15; and whole document) shows elements and limitations of claims 24-26.

Additionally, Hunt discloses purchasing (col 1, lines 47-51).

Hunt discloses online shopping, the utilization of a shopping cart, and the user seeking further product related information (col. 2, lines 32-50; and col. 1, lines 35-60).

Hunt's discloses utilization of a shopping cart for shopping involving multiple and varied items as stated above.

Hunt does not explicitly disclose providing additional information on items that can be placed in shopping carts or presenting information from numerous sources on item(s) of interest to a user/purchaser.

However, Hoyle discloses placing items in a shopping cart and that the user can receive more information on items of interest in the shopping cart:

“[0155] The present invention also provides the user with an efficient and effective way to shop on line; by creating a kind of global electronic shopping cart which can be used to electronically accumulate items for purchase from any of a number of different sellers and distributors. The shopping cart can be implemented as one or more files stored on the server as a part of the user library and the client software application can be configured to manage the information stored in the shopping cart. Then, for example, when a user browsing on the Internet or other network decides that they wish to purchase a product, suitable purchasing information can be added to the shopping cart.

Art Unit: 3622

This action can be carried out by selection of an appropriate icon or menu command on the software client application's graphical user interface.

Optionally, the icon could be located on a web site itself or the menu command could be added to a menu that is accessible using a mouse, such as by activation of the right button on the mouse. The product information, including pricing and the necessary purchasing information can be made available by the web site to the client software application. Also, the URL of the site containing the product information can be stored in the shopping cart to enable the user to easily return to the site at a later time to review product information. For electronic product information available from other sources, such as set-top television box, the user can select items shown in a television program, television advertisement, or other type of visual advertisement, with an associated URL or other information then being added to the shopping cart. The information added to the shopping cart can be broadcasted along with the television program and then saved in the shopping cart when selected by the user. The user can then review the contents of the shopping cart at a later time, adding and removing items from the cart as desired, reviewing the total purchase price and taxes calculated and displayed by the software, and then making a final purchase. The user profile can include credit card, mailing address, and other such information to enable the purchase of products in the shopping cart without the user having to enter the information each time a purchase is made. As will be appreciated, this permits

Art Unit: 3622

the user to add items to the cart from different sellers or distributors and without having to make a final purchase decision at that time and without having to attend to actually purchasing the items until a later time when the contents of the entire cart can be examined”.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Hoyle’s providing additional information on items that can be placed in shopping carts to Hunt’s utilization of a shopping cart for shopping involving multiple and varied items. One would have been motivated to do this in order to provide the user with relevant information on items of interest.

Additionally, the combination of the prior art renders obvious designating a third party which the first user permits to view the cart identification information and to view product information which the first user associates with the cart identification information.

The combination of the prior art renders obvious the features which have been priorly stated above. The features which have been priorly stated as rendered obvious by the combination of the prior art above are also assumed for the features that are disclosed below.

Hunt further discloses the tracking user activity across a range of time and correlating it with a variety of information:

“(18)... The session ID is embedded in the Domain field, which allows cross-application interaction and, in particular, allows for online or offline correlation of user action data across the seam between the catalog subsystem and the purchase subsystem. For example, the association of the digital offer data with the unique session ID will allow a separately developed reporting tool to correlate details of a sale

Art Unit: 3622

with the inbound source, user action at the network site, and net sale data.

The Domain field can also contain other application-specific information” (col 6, lines 48-60).

Hunt does not explicitly disclose the user designating a third party that the user agrees can track and target the user.

However, Hoyle discloses that the user can register with a third party, that the user registration with a third party can be optional, that user registration can include the user sharing a variety of user information with a third party, that along with the user registration the third party can monitor user activity including user shopping related activity, that targeted information can be provided to the user by the third party based on the known user information, that in registering the user designates a third party that the user agrees can track and target the user:

“[72]. . . In addition, features are provided to deliver advertising (e.g., banner advertising) to users based on demographic and computer usage information or data captured from users (e.g., data supplied by users during registration, and demographic and usage demographic data captured from information obtained based on web site visitation, applications employed, and other usage data); and that targeted advertising can be displayed to those users during the course of use of the computer by those individual users, irrespective of whether those users are connected to a network (i.e., are online) or whether those users are using the computer for a non-network application (i.e., are offline).

[87]. . . Other basic commands that can be available for view and use (but are not shown) include access to a menu that identifies guest users registered on a particular



Art Unit: 3622

account, a search button that invokes a web browser to which the user has access to connect to a web site or a search engine, and a menu item that allows initiation of procedures for user registration. This menu item can be labeled, for example, as a "User" menu item; and can be used to allow an initial user to identify, add or delete guest users, as well as to also allow the user to relinquish control of the application (i.e., cancel the service). . .

A menu item labeled "Help" invokes a context-sensitive help facility for the user, provides information about the product, provides information regarding the capabilities of the product, and provides pointer-based direction to the user.

[0104] Login module 60 (FIG. 4) comprises an ActiveX.TM. or Java.TM. login component which includes the programming that provides the user login and password validation features. If desired, this module can also include a security component that provides encryption of data transmitted over the Internet. PDA module 62 is an ActiveX.TM. or Java.TM. component that can be used to handle importing and exporting of user data between the client software application and the formats needed for use with a personal digital assistant. Also, this module can be used for interfacing the client software application with the user's current personal information management software, such as Outlook.TM., Lotus Notes.TM., or Netscape.TM. mail. The security module can also include an import/export wizard for use by the user in converting between formats.

Art Unit: 3622

[0119] Referring now to FIG. 8, the process for providing access to the client software application and for obtaining and utilizing demographic information regarding the user will now be described. As will be appreciated, the software download and data gathering process of FIG. 8 can be implemented by a suitable server program residing on ADM server 22. As indicated at blocks 132 and 134, in response to server 22 receiving a download request from a user, the server sends a form to the user and then waits for the completed form to be posted back to the server. The form can include a number of required fields that provide the minimum data needed to generate a proper demographic profile of the user. Exemplary user information includes age, sex, region of residence, education level, occupation, interests and hobbies, recent major purchases, income level, and the like. Other information that can be provided includes identity of computer network service, electronic mail service, computer and monitor type, computer operating system, browser application, and the like. Personal information, that is used for accounting and user identity purposes for future usage, but most preferably not for targeted banner advertising purpose, include name, address, user name and password of the user. Other information regarding the user includes whether the user is an initial user or a guest user. Other personal information, such as credit card information also can be provided. However, such information can be maintained within a secure location within the server, and not used in other network transactions, such as over the Internet. For example, credit card information can be maintained in a

Art Unit: 3622

secure location within a user's personal profile; commercial transactions initiated by the user can be transacted by ultimate transfer of the credit card information between computers in a secure manner (e.g., between the server and a computer authorized to conduct, in a secure manner, collection for credit card based transactions).

[0120] Once server 22 has received the completed form, a check is made to determine whether all of the required fields have been completed, as indicated at block 136. This check can include a certain amount of validity checking of the data. For example, if the user is required to specify the city and state in which they live, a check could be made to determine whether the city and state reported by the user actually exists. Similarly, a reported area code could be checked to determine its validity. If required information is missing or invalid, flow moves to block 138 where the server resends the form with a request for correction. As is known, this can include an identification of the particular required data that was missing or invalid. Once server 22 receives a correctly completed form, flow moves to block 140 where server 22 assigns a unique ID to the user and then stores that ID along with the received demographic data, as indicated at block 142. As discussed above in connection with FIG. 3, this data is stored in the user/demographics data base 46. Then, an initial set of banner advertisements and links are selected based upon the user's zip code, indicated at block 144. The links are used to provide an initial set of links for each of the bookmark categories represented by icons

Art Unit: 3622

80. Thereafter, client software application 10 is downloaded to the user's computer for installation by the user, as indicated at block 146. Preferably, the client software application is packaged as a single, self-extracting ZIP file and includes an installation program that handles installation of the program and all of its components into proper directories, as well as making the necessary entries into the Windows.TM. Registry.

[121]. ... The application declares itself a new installation of a client software application, and the server provides an identifier for subsequent identifications between the application and the server. User identification provides individual users with the ability to receive advertising banners that are specifically targeted to a specific user from among multiple users that may be registered at a particular computer or through a client software application; as well as the ability to ensure that the set of applications shortcuts, web hyperlink channels, and the organization of resources set up by an individual user are reproduced when that specific user's accesses the client software application.

[0125] As shown in FIG. 9, upon execution of the client software application 10, a login and password input box is displayed. This is shown at block 148. Once the user has entered a login name, a check is made at block 150 to determine whether the user name is new. If not, a check is made at block 152 to determine whether the password provided for the recognized login name is correct. If not, flow returns to block 148 where the login box is again displayed. If the password is correct, flow moves to block 154 where the

Art Unit: 3622

application accesses the user's set of preferences and customizations for the display of the graphical user interface. The application also accesses the banner database and various bookmark categories for that user which, as described above, contains for each category of information a number of links to different information resources. Flow then moves to block 156 where the graphical user interface is displayed along with a first banner. The login names and associated passwords can be stored in the user data storage 34. Similarly, the user preferences, categorized lists of bookmarks, and banner database can be stored in user data storage 34. Optionally, the login and password are used to provide an identification of the user to the server 22 so that the user profile and user library may be accessed and incorporated into the graphical user interface provided by the client software application.

[0136] The client and user registration module 338 provides the capabilities required to establish a new user or to establish an existing user who has moved to a different computer. The user services module 340 provides the capabilities required to interact with the components of the client software of the user's computer in order to implement and manage the features and benefits realized at the user's computer. The user services module 340 provides for recordation of usage information, delivery of targeted advertising material to users, support of network bookmarks for the user, and applications support for the user. The advertiser services module 342 provides those capabilities required to deliver services required in support of advertisers employing the

Art Unit: 3622

system for the purpose of delivering advertising to users. The advertiser services module 342 provides for capture and maintenance of advertiser registration information, management of advertiser account status, receipt of advertising material, presentation of user demographic data, and management of targeting advertising designations. . .

[0137] The client and user registration module 338 maintains a list of users registered to use a particular installation of the relevant software, and transfers updates to the list to the server 22, and it is possible that a user can possess more than one installation. One user of the installation is recognized as the owning user of the installation. At any time that the application is active, it will have identified a current user from the list of users registered for that installation. As such, the module thus invokes the user profile of the particular, current user. When the application is used on a computer using an operating system such as WindowsNT, or any other operating system environment that enforces rigorous access controls, it can use the user identity derived from the Windows NT log-in procedures. For example, the application can match the Windows NT log-in identity against a table of users registered for that machine, and can invoke the user profile of the user who has previously worked under that Windows NT identity. In addition, the application can use the Windows NT user profile facility to derive correspondence between Windows NT users and users of the application. When the application is used on a computer using an operating system such as Windows 98,

Art Unit: 3622

Windows 95, or Windows 3.1, or any other operating system environment that lacks rigorous access controls, the application can prompt the user for the user identity and password. For example, the application can maintain a listing of users registered for a particular computer, and can invoke the user profile of an individual user so identified. Optionally, an individual user of an application installation can turn off the user identification capabilities, and in that case the user profile of that user can always be invoked without prompting.

[0147] A previously registered user using a new (or previously unregistered) computer can register. A user providing information shall be granted access to the server, and the server shall retrieve all of the user profile data from the server. Optionally, the user can provide information to provide an updated profile, which then is stored by the server. Typically, the first user to register on a computer shall be designated as the first user; and subsequent users of that installation can be recorded as guest users of that installation. Such an aspect of the present invention is particularly preferred, because a previous user can access personal information from any computer having network access, such as Internet access. In certain circumstances, the initial user can be a parent of a family, a corporation, or the management of an organization, and as such, the initial user can remove guest users from the system. In the event that a user does not expect to use a particular computer again (e.g., such as a computer located in a courtesy business area at an

Art Unit: 3622

airport), the user can have the option to register as a temporary user, providing of profile information is optional, and no personal profile is maintained on the server for that user.

[137]...Optionally, an individual user of an application installation can turn off the user identification capabilities, and in that case the user profile of that user can always be invoked without prompting”.

Note particularly in paragraphs [125, 147, 137] that list of users who have given their information to the third party such the third party can track and target the user(s) is disclosed. Also, note that the user can decide whether or not to register with the third party and that the user can utilize the system without providing to the third party user information that is used for tracking and targeting the user. Also, note in Hoyle that the third party is the party which the user registers with and which tracks and targets the user. Hence, the user in Hoyle's disclosure designates a third party which the first user permits to view a variety of user information and activity including information and activity related to user shopping and purchasing, tracking, and targeting.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Hoyle's user designating a third party that the user agrees can track and target the user to Hunt's tracking and targeting a user. One would have been motivated to do this in order to better track and target the user by having a user who has more relevant information available for tracking and targeting of the user.

Additionally, Allibhoy discloses e-commerce, an electronic shopping cart, third party content providers, that the user can request more information on a product, cross-selling,



Art Unit: 3622

advertising associated with shopping carts (Abstract; Fig. 1; Fig. 2; Fig. 3; Fig. 7; Paragraph [14]).

Also, Allibhoy further discloses the third party or the user being able to designate which content providers the user will receive further information from ([69, 80, 93, 159 ]). Notice in these citations that the user can indicate explicitly which brands, companies, preferences, etc that the user is interested in receiving more information about.

Also, Allibhoy further discloses that the User can request additional information on items, products, or items/products in a shopping cart ([75, 76, 80, 82, 94]; claim 13, claim 25).

Also, Allibhoy further discloses branding and advertising related to a shopping cart ([128, 124]).

Also, Allibhoy further discloses cross-selling and cross-selling related to a shopping cart ([16, 125]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Allibhoy's designating a content provider of interest and providing additional information on items that can be placed in shopping carts and/or cross-selling related to items that can be placed in shopping carts to Hunt's utilization of an electronic shopping cart for shopping involving multiple and varied items. One would have been motivated to do this in order to provide the user with relevant information on items of interest.

Additionally, Hunt tracks all cart related activity (Fig. 4).

And, Allibhoy allows extensive cart tracking by the information provider who is the controller and also real-time additional information providing relevant to the shopping cart by

Art Unit: 3622

the controller (Fig. 1; Fig. 3; [75]). Allibhoy also discloses control over who is allowed to communicate with the user ([9]).

And, Allibhoy discloses that the content provider/seller is connected to the user through the same network as the controller (Fig. 1). Also, note in Fig. 1 that the content provider does not have to go through the controller to communicate with the receiver/user/buyer.

Allibhoy also discloses cross-selling and targeted advertising related to the shopping cart:

“[16]. . .The profile can also be used for cross-selling purposes and to target advertising, such as that which may be included in the Shopping Cart screens, to a specific user.”

Allibhoy also discloses transactions involving a shopping cart between a user and content provider:

“[0013] According to yet another aspect of the invention, transactional information between an end user and a Content Provider is stored within a Shopping Cart under the control of the Controller.”

Allibhoy also discloses direct communications/transactions between a user and content provider:

“[0012] According to yet another aspect of the invention, the Controller allows user transaction requests to go directly to the designated Content Provider. If the Content Provider appends the required markers to the programming and abides by the system requirements, the programming is allowed to pass to the end user, thus completing this phase of the transaction”

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Allibhoy's disclosed cross-selling, further information providing to the user, direct communication network between a content provider and user, direct communications/transactions between a content provider and user can also include communications during the time of shopping cart use as the controller already performs. One

Art Unit: 3622

would have been motivated to do this in order to allow the user further information of relevance and also better communications.

Also, the MPEP 2144.04.VI. discloses that reversal, duplication, or rearrangement of parts is obvious. Therefore, it is obvious that the content provider can also communicate with the user during a cart transaction as the controller does.

Also, Allibhoy discloses determining whether the received additional information is from the product provider which the first user permits to view the cart identification information and to view the product information associated with the cart identification information (all of paragraph [69 and 9] and also this particular citation from [9]):

“[9]. . . First, Content Provider access to the network can be limited to authorized Content Providers, authorization typically being given to those Content Providers that agree to a specific programming format and/or agree to a fee arrangement with the Network Operator. Second, the triggers/markers can be used for filtering purposes, allowing the end user, the Network Operator, the Controller, or other party to filter the enhanced content programming that is provided to a specific end user”.

3. Claims 1-12, 14-26 are rejected under 35 U.S.C. 103( a ) as being unpatentable over Hunt (6,223,215) in view of Hoyle (2005/0005242) in view of Allibhoy (2004/0172343) in view of Notz (7,016,874).

Please see the rejection above.

Hunt further discloses tracking all cart related activity (Fig. 4).

Hunt does not explicitly disclose that a vendor/seller can see the user's cart and make further recommendations/provide further information/upsell/cross-sell.

Alternatively/additionally, Notz discloses a merchant/seller being able to see the cart and make an upsell recommendation (col 9, lines 20-36; col 10, lines 10-25).

Art Unit: 3622

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Notz vendor upsell/further information to Hunt's cart with tracking. One would have been motivated to do this in order to better utilize the cart for providing information and making purchases.

### *Response to Arguments*

4. Applicant's arguments with respect to claims 1-12 and 14-26 have been considered but are not found persuasive.

On page 15 of the Applicant's Remarks dated 1/19/2007, Applicant states, "There is no suggestion, nor even contemplation, in Allibhoy of the user allowing any product provider, including the provider of the item in the shopping cart, to view any cart identification information or product information associated with the cart identification information."

However, Examiner notes that it must be presumed that the artisan knows something about the art apart from what the references disclose. In re Jacobv, 309 F.2d 513, 135 USPQ 317 (CCPA 1962). The problem cannot be approached on the basis that artisans would only know what they read in references; such artisans must be presumed to know something about the art apart from what the references disclose. In re Jacoby. Also, the conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint of suggestion a particular reference. In re Bozek, 416 F.2d 1385, USPQ 545 (CCPA 1969). And, every reference relies to some extent on knowledge or persons skilled in the art to complement that which is disclosed therein. In re Bode, 550 F.2d 656, USPQ 12 (CCPA 1977).

Art Unit: 3622

Also, Examiner notes that the person of ordinary skill in the art is a hypothetical person who is presumed to know the relevant prior art. *Custom Accessories, Inc. v. Jeffrey-Allan Indus., Inc.*, 807 F.2d 955,962, 1 USPQ2d 1196, 1201 (Fed. Cir. 1986).

In determining this skill level, the court may consider various factors including "type of problems encountered in the art; prior art solutions to those problems; rapidity with which innovations are made; sophistication of the technology; and educational level of active workers in the field." *Id.*, cited in *In re GPAC*, 57 F.3d 1573, 1579, 35 USPQ2d 1116, 1121 (Fed. Cir. 1995). In a given case, every factor may not be present, and one or more factors may predominate. *Id.* at 962-63, 1 USPQ2d at 1201.

And, Hunt tracks all cart related activity (Fig. 4).

And, Allibhoy allows extensive cart tracking by the information provider who is the controller and also real-time additional information providing relevant to the shopping cart by the controller (Fig. 1; Fig. 3; [75]). Allibhoy also discloses control over who is allowed to communicate with the user ([9]).

And, Allibhoy discloses that the content provider/seller is connected to the user through the same network as the controller (Fig. 1). Also, note in Fig. 1 that the content provider does not have to go through the controller to communicate with the receiver/user/buyer.

Allibhoy also discloses cross-selling and targeted advertising related to the shopping cart:

"[16]. . . The profile can also be used for cross-selling purposes and to target advertising, such as that which may be included in the Shopping Cart screens, to a specific user."

Allibhoy also discloses transactions involving a shopping cart between a user and content provider:

Art Unit: 3622

"[0013] According to yet another aspect of the invention, transactional information between an end user and a Content Provider is stored within a Shopping Cart under the control of the Controller."

Allibhoy also discloses direct communications/transactions between a user and content provider:

"[0012] According to yet another aspect of the invention, the Controller allows user transaction requests to go directly to the designated Content Provider. If the Content Provider appends the required markers to the programming and abides by the system requirements, the programming is allowed to pass to the end user, thus completing this phase of the transaction"

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Allibhoy's disclosed cross-selling, further information providing to the user, direct communication network between a content provider and user, direct communications/transactions between a content provider and user can also include communications during the time of shopping cart use as the controller already performs. One would have been motivated to do this in order to allow the user further information of relevance and also better communications.

Also, the MPEP 2144.04.VI. discloses that reversal, duplication, or rearrangement of parts is obvious. Therefore, it is obvious that the content provider can also communicate with the user during a cart transaction as the controller does.

Alternatively/additionally, Notz discloses a merchant/seller being able to see the cart and make an upsell recommendation (col 9, lines 20-36; col 10, lines 10-25). Please see the additional 35 USC 103 rejection made using Notz above.

On page 15, Applicant states that the combination of the prior art does not render obvious, "determining whether the received additional information is from the product provider

Art Unit: 3622

which the first user permits to view the cart identification information and to view the product information associated with the cart identification information.”

However, Allibhoy discloses these features (all of paragraph [69 and 9] and also this particular citation from [9]):

“[9]. . .First, Content Provider access to the network can be limited to authorized Content Providers, authorization typically being given to those Content Providers that agree to a specific programming format and/or agree to a fee arrangement with the Network Operator. Second, the triggers/markers can be used for filtering purposes, allowing the end user, the Network Operator, the Controller, or other party to filter the enhanced content programming that is provided to a specific end user”.

Also, Examiner notes that it is the Applicant's claims as stated in the Applicant's claims that are being rejected with the prior art. Also, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). And, Examiner notes that claims are given their broadest reasonable construction. See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664 (Fed. Cir. 2000).

Also, Examiner notes that while specific references were made to the prior art, it is actually also the prior art in its entirety and the combination of the prior art in its entirety that is being referred to. Also, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

***Conclusion***

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

a) McCollom (6,343,274) discloses utilizing a buddy list for a user to indicate advertisers/vendors/companies/categories of which the user will allow to send information to the user;

b) Jacobi (2001/0021914) discloses a shopping cart where the user can attain further relevant information to the items in the shopping cart;

c) Notz (7,016,864) discloses upselling/cross-selling with an electronic shopping cart.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.



Art Unit: 3622

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Arthur Duran  
Primary Examiner  
2/15/2007